

116TH CONGRESS  
2D SESSION

# S. 3599

To enhance our Nation’s nurse and physician workforce during the COVID–19 crisis by recapturing unused immigrant visas.

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IN THE SENATE OF THE UNITED STATES

MAY 5, 2020

Mr. PERDUE (for himself, Mr. DURBIN, Mr. YOUNG, Mr. COONS, Mr. CORNYN, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To enhance our Nation’s nurse and physician workforce during the COVID–19 crisis by recapturing unused immigrant visas.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Healthcare Workforce  
5 Resilience Act”.

1 **SEC. 2. RECAPTURING UNUSED IMMIGRANT VISAS FOR**  
2 **PROFESSIONAL NURSES AND PHYSICIANS.**

3 Section 106(d) of the American Competitiveness in  
4 the Twenty-first Century Act of 2000 (Public Law 106–  
5 313; 8 U.S.C. 1153 note) is amended to read as follows:

6 “(d) RECAPTURE OF UNUSED EMPLOYMENT-BASED  
7 IMMIGRANT VISAS.—

8 “(1) IN GENERAL.—Subject to paragraph (2),  
9 and notwithstanding any other provision of law, the  
10 number of employment-based visas made available  
11 under section 203(b) of the Immigration and Na-  
12 tionality Act (8 U.S.C. 1153(b)) shall be increased  
13 by the number calculated in paragraph (3).

14 “(2) LIMITATIONS.—

15 “(A) IN GENERAL.—Visas may only be  
16 made available under this subsection for up to  
17 40,000 employment-based immigrants (and  
18 their family members accompanying or fol-  
19 lowing to join under section 203(d) of such Act  
20 (8 U.S.C. 1153(d))) whose immigrant worker  
21 petitions were filed before the date that is 90  
22 days after the termination of the President’s  
23 declaration of a national emergency under sec-  
24 tions 201 and 301 of the National Emergencies  
25 Act (50 U.S.C. 1601 et seq.) pertaining to the  
26 COVID–19 outbreak in the United States (re-

1           ferred to in this subsection as the ‘COVID–19  
2           emergency declaration’).

3           “(B) RESERVATIONS.—Of the visas au-  
4           thorized under subparagraph (A)—

5                   “(i) 25,000 shall be reserved for pro-  
6                   fessional nurses; and

7                   “(ii) 15,000 shall be reserved for phy-  
8                   sicians.

9           “(C) EXEMPTION FROM COUNTRY CAPS.—  
10          Visas made available under this subsection—

11                   “(i) shall not be subject to the per  
12                   country numerical limitation set forth in  
13                   section 202(a)(2) of the Immigration and  
14                   Nationality Act (8 U.S.C. 1152(a)(2)); and

15                   “(ii) shall be issued in order of the  
16                   priority date assigned at the time the visa  
17                   petition was filed.

18          “(3) NUMBER AVAILABLE.—

19                   “(A) UNUSED VISAS.—Subject to subpara-  
20                   graph (B), the number calculated in this para-  
21                   graph is the difference between—

22                   “(i) the total number of employment-  
23                   based visas that were made available in fis-  
24                   cal years 1992 through 2020; and

1           “(ii) the total number of such visas  
2           that were used in such fiscal years.

3           “(B) REDUCTION AND LIMITATION.—The  
4           number described in subparagraph (A) shall be  
5           reduced, for each fiscal year following the first  
6           fiscal year in which the COVID–19 emergency  
7           declaration is in effect, by the cumulative num-  
8           ber of immigrant visas used pursuant to para-  
9           graph (1).

10          “(C) FAMILY MEMBERS.—

11           “(i) IN GENERAL.—Family members  
12           described in section 203(d) of the Immi-  
13           gration and Nationality Act (8 U.S.C.  
14           1153(d)) who are accompanying or fol-  
15           lowing to join a principal beneficiary seek-  
16           ing admission under this subsection shall  
17           be entitled to an unreserved visa in the  
18           same status and in the same order of con-  
19           sideration as such principal beneficiary.

20           “(ii) EXEMPT FROM SKILL-BASED NU-  
21           MERICAL LIMITATION.—Visas described in  
22           clause (i)—

23                   “(I) shall be made available from  
24                   the pool of recaptured unused immi-

1 grant visas calculated under subpara-  
2 graph (A); and

3 “(II) shall not be counted against  
4 the total number of immigrant visas  
5 reserved for professional nurses and  
6 physicians under paragraph (2).

7 “(D) RULE OF CONSTRUCTION.—Nothing  
8 in this paragraph may be construed as affecting  
9 the application of section 201(c)(3)(C) of the  
10 Immigration and Nationality Act (8 U.S.C.  
11 1151(c)(3)(C)).

12 “(4) PREMIUM PROCESSING; EXPEDITED PROC-  
13 ESSING.—

14 “(A) PREMIUM PROCESSING.—The Sec-  
15 retary of Homeland Security, in conjunction  
16 with the Secretary of State, shall provide pre-  
17 mium processing procedures, as provided for  
18 under section 286(u) of the Immigration and  
19 Nationality Act (8 U.S.C. 1356(u)), for review-  
20 ing and acting upon petitions and applications  
21 for immigrants described in paragraph (2).  
22 Notwithstanding such section, U.S. Citizenship  
23 and Immigration Services may not charge a  
24 premium fee for such services.

1           “(B) SHIPPING PETITIONS.—The Director  
2 of U.S. Citizenship and Immigration Services  
3 shall expedite the shipping of each petition de-  
4 scribed in subparagraph (A) requiring consular  
5 processing to the Department of State imme-  
6 diately after—

7                   “(i) the completed petition has been  
8 resolved; and

9                   “(ii) the petitioner has replied to any  
10 request from U.S. Citizenship and Immi-  
11 gration Services for additional evidence.

12           “(C) EXPEDITED PROCESSING.—The Sec-  
13 retary of State shall expedite the processing of  
14 applications for immigrants described in para-  
15 graph (2) after receiving a petition on behalf of  
16 such immigrants from U.S. Citizenship and Im-  
17 migration Services.

18           “(5) LABOR ATTESTATION.—Before an immi-  
19 grant visa reserved under paragraph (2)(B)(i) is  
20 issued to an alien, the petitioner shall attest, in the  
21 job offer letter presented by the alien to a consular  
22 officer during the consular interview, that the hiring  
23 of the alien has not displaced and will not displace  
24 a United States worker.”.

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